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OFFICE OF PETITIONS

In re Application of :
Thompson, et al. : DECISION REFUSING STATUS
Application No. 09/725,019 : UNDER 37 CFR 1.47(a)
Filed: November 29, 2000 :
Atty. Dkt. No.: 10799/12 :
For: DNA ENCODING A PLANT :
DEOXYHYPUSINE SYNTHASE, A :
PLANT EUKARYOTIC INITIATION :
FACTOR 5A, TRANSGENIC PLANTS :
AND A METHOD FOR CONTROLLING :
SENESCENCE PROGRAMMED AND CELL :
DEATH IN PLANTS :
:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed September 16, 2004.

The petition is **DISMISSED AS INAPPROPRIATE.**

The Notice of Allowability indicated that the declaration of record improperly claimed foreign priority to a PCT application and requested correction. In response, applicants submitted a petition under 37 CFR 1.47 wherein it is alleged that previously signing inventor Dongen Lily Lu refused to execute the declaration.

The first executed oath or declaration filed establishes the inventive entity of an application. The provisions of 37 CFR 1.47 are only applicable to original oaths or declarations. The above-identified application was filed November 29, 2000 with an executed declaration filed pursuant to 37 CFR 1.63(d). Thus, a petition under 37 CFR 1.47 is inappropriate and cannot be considered on the merits.

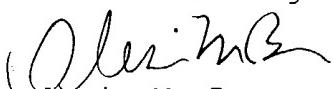
However, as petitioners are seeking to correct the priority data contained in the application, petitioners should note that no petition is necessary for this purpose. Furthermore, this may be accomplished without the submission of a supplemental declaration. Petitioners should promptly submit an Application

Data Sheet ("ADS") in compliance with 37 CFR 1.76 deleting reference to the faulty claim.

To deter further processing, petitioners are given TWO (2) WEEKS from the mail date of the instant decision to submit the required correction to the examiner of record in Group Art Unit 1683.

In future, petitioners are advised that the submission of a supplemental ADS should occur prior to the payment of the issue fee.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.



Alesia M. Brown
Petitions Attorney
Office of Petitions